

## CHAPTER 8

### CONTENTS

### STATE BUDGET AND APPROPRIATION PROCESS

<b>Governor's Budget</b> .....	1
Restrictions on Spending Public Funds .....	2
<b>Appropriation Bills</b> .....	2
<b>Notes Required on Some Kinds of Bills</b> .....	3
Fiscal Notes .....	4
Pension Impact Notes.....	4
Judicial Notes .....	4
State Debt Impact Notes .....	4
Correctional Budget and Impact Notes .....	5
Home-Rule Notes.....	5
Balanced Budget Notes .....	5
Housing Affordability Impact Notes.....	5
State Mandate Notes .....	6
General Points on Notes.....	6
Real Estate Appraisals in House .....	6
<b>State Debt Authority</b> .....	6
Long-Term Debt .....	7
Short-Term Debt .....	7
Medicaid Borrowing .....	7
Revenue Bonds .....	8
<b>Post-Appropriation Reports</b> .....	8



## STATE BUDGET AND APPROPRIATION PROCESS

Even if the General Assembly passed no substantive bills, it would still need to meet each year and appropriate money to fund the state government. Until 1969 the General Assembly passed appropriations for 2 years at a time (biennial appropriations). But in 1969 a single-year annual budget and appropriations were enacted; and the 1970 Constitution mandated a continuation of annual budgets and appropriations.

### Governor's Budget

The budget and appropriation season opens on the third Wednesday in February when the Governor presents his proposed budget to a joint session of the General Assembly.<sup>1</sup> The Governor outlines his fiscal program for the year and argues for its adoption. This message also alerts the many groups interested in state programs about how much support they can expect from the Governor. This budget message is the first round in the fight for state money.

The Governor's proposed budget for current fiscal year (FY) 2005 was a volume about an inch thick. It showed estimated revenues available to the state for the next fiscal year and, as required by the Constitution, set forth "a plan for expenditures and obligations during the fiscal year of every department, authority, public corporation and quasi-public corporation of the State, every State college and university, and every other public agency created by the State . . . ."<sup>2</sup> It listed categories of programs such as education, transportation, and public safety, describing in detail how much money the Governor proposed to allocate for each purpose by department or agency, and what objectives would be met by those expenditures. A separate book outlined a plan of capital improvements for the year, and a program to fund them. Proposed expenditures were listed and compared to the same categories from recent years. The Governor's proposed budget also set forth exact numbers as they would be enacted in appropriations, categorized by line items for each agency.

The State Finance Act says the Governor's proposed appropriations are to be prepared in the form of one or more bills, and within two session days after the Governor's budget message either introduced in the General Assembly or sent to the House and Senate leaders.<sup>3</sup>

**Restrictions  
on Spending  
Public Funds**

The Constitution imposes several general restrictions on how public money can be spent:

- (1) Public funds, other public property, and public credit can be used only for public purposes.<sup>4</sup> Illinois court decisions have held that the fact that some benefits will flow to a private organization does not make an expenditure unconstitutional, if it serves a public purpose.<sup>5</sup>
- (2) Public funds can be spent only as authorized by law.<sup>6</sup> Records of those expenditures must be available for public inspection.<sup>7</sup>
- (3) Appropriations cannot exceed funds estimated by the General Assembly to be available for the fiscal year.<sup>8</sup> To meet this requirement, the Illinois Economic and Fiscal Commission (IEFC) issues an estimate of all anticipated income of the state for each upcoming fiscal year. A law requires the IEFC to make such estimates to the General Assembly at the start of each regular session, and update it on the third Wednesday in March. The IEFC is also required to issue estimates of pension funding requirements and state employee group health insurance costs for the next fiscal year on the third Wednesday in March.<sup>9</sup>

**Appropriation Bills**

Under the Illinois Constitution, appropriation bills must be limited to appropriations; they cannot propose substantive changes in law.<sup>10</sup> The first page of an appropriation bill has the same kind of information as on a substantive bill: the bill's number, sponsor, and a synopsis of its contents as introduced. The synopsis on an appropriation bill states the general purpose of the appropriation(s), the name(s) of the department(s) or agency(ies) to receive them, their total amount, and how much is to come from which funds in the state treasury.

Every deposit into the state treasury goes into a specific fund. The basic fund for running state government is the General Revenue Fund (GRF). Money in the GRF is not "earmarked" and may be appropriated for any lawful state purpose. Other funds are restricted to specific uses established by law, such as the Road Fund or Common Schools Fund. An appropriation bill specifies the fund in the state treasury from which the money is to be drawn.

The text of an appropriation bill, starting on its second page, has one or more sections, each stating the general use of one appropriation (such as for ordinary and contingent expenses of a named department); amounts categorized into specific classes of expenditures; and the name(s) of the fund(s) in the state treasury from which the money is to come. The State Finance Act classifies appropriations into 18 categories<sup>11</sup> and defines the purposes of most of them.<sup>12</sup> The categories that typically have the largest expenditures are personal services, contractual services, commodities, and equipment. Each sum to be spent in any classification is called a line item. Any item or reduction vetoes by the Governor must be made to specific line items.

After an appropriations law is enacted, a department or agency can use each line item for only the purposes stated, with the following limited exception: In normal years as much as 2% of each agency's *total* appropriation can be transferred among purposes, but only within the same fund in the state treasury.<sup>13</sup> This provision does not allow transfer from a line item for personal services, for contributions to the State Employees' Retirement System, or for employee group insurance.<sup>14</sup> If a larger transfer is needed, or a deficiency or supplemental appropriation is needed before the end of a fiscal year, agencies must ask the General Assembly to provide it.

(A temporary provision effective only in fiscal year 2003 raised the limit on intrafund transfers to 3%.<sup>15</sup> Other provisions effective only in fiscal year 2005 raise the overall limit on intrafund transfers to 4%<sup>16</sup> and, as an exception to the prohibition stated in the preceding paragraph, allow additional transfers of up to 2% among an agency's appropriations from any one treasury fund for personal services and retirement contributions.<sup>17</sup>)

An appropriation is sometimes instead made for a specific project or event (such as for the New Members' Conference) without division into categories. This is called a "lump-sum" appropriation. It is a separate appropriation for a single project, so no transfers can be made into or out of it.<sup>18</sup>

An appropriation bill covers no more than one fiscal year, and may further divide a line item into parts to be spent during only the first or last half of the fiscal year. For example, if a general election will occur during a fiscal year (with a some change in elected officers), the General Assembly typically allows no more than half of each appropriation for operating a state office to be spent in the first 6 months of that fiscal year (July through December).

Although appropriation bills must be limited to appropriations, there is no limit on how many appropriations can be in one bill. Most or even all of the state budget can be appropriated in one bill, as was done for the current fiscal year (2005).<sup>19</sup>

Appropriation bills must meet the same procedural requirements for passage as other bills.

### Notes Required on Some Kinds of Bills

Several laws allow legislators to demand the filing of "notes" giving information on some kinds of bills—or even require notes on all bills in some category. These notes attempt to project possible effects (usually financial) if a bill becomes law. The kinds of such "impact notes" that can be demanded, or are automatically required by law for some types of bills, are fiscal, pension, judicial, state debt, correctional budget and impact, home rule, balanced budget, housing affordability, and state mandates. The *Legislative Synopsis and Digest* entry on a bill may state that it is subject to one or more of these note requirements, which are described on the next page.

**Fiscal Notes** The sponsor must obtain a fiscal note before the Second Reading of any non-appropriations bill that would directly or indirectly increase spending of state funds; increase or reduce state revenues; increase spending by or change revenues to units of local government, school districts, or community college districts; revise the distribution of state aid among any such units; or amend the Mental Health and Disabilities Code or Developmental Disabilities and Mental Disabilities Services Act. The sponsor is to send a copy of the bill to the agency whose costs or duties would be most affected, asking it to prepare a fiscal note. The agency is to furnish a note within 5 calendar days unless the sponsor authorizes an extension due to the bill's complexity. The note is to provide an estimate of the immediate and possible long-range fiscal effects of the bill. Another provision says that if a bill would authorize capital expenditures or appropriate funds for them, the Governor's Office of Management and Budget is to prepare a fiscal note, specifying by year any principal or interest payments that would be required to finance the spending. If no estimate can be provided, the note will say so and give the reason.<sup>20</sup> Legislators' opinions on the accuracy of estimates in a fiscal note sometimes vary depending on whether they support or oppose the bill involved.

**Pension Impact Notes** If a bill would amend the Illinois Pension Code or the State Pension Funds Continuing Appropriation Act, the Clerk of the House or Secretary of the Senate is to send a copy to the Illinois Economic and Fiscal Commission, asking it to provide a pension impact note within 7 days.<sup>21</sup> Such a note describes the immediate and long-range financial effects of changes proposed to public pension systems. The Commission may also comment on the merits of the bill.<sup>22</sup> Copies of the note go to the Presiding Officer and minority leader of each house, the Clerk and Secretary, the chairman of the committee in each house that considers pension bills, the sponsor, and the legislator (if any) who asked for a note.<sup>23</sup>

**Judicial Notes** If a bill would have the purpose and effect of increasing or reducing the number of any category of state judges, the sponsor must send a copy to the Illinois Supreme Court and ask it to provide a judicial note within 5 days. Such a note estimates the need for an increase or decrease in judges, based on population and caseload data for the area covered. If this need cannot be determined, the note will say so and give the reason.<sup>24</sup>

**State Debt Impact Notes** If a bill would increase the state's authorized long-term debt, or appropriate money from bond financing, the chairman of the committee that assigns bills to committee in its house of origin (presumably now referring to that house's Rules Committee) is to send a copy to the Illinois Economic and Fiscal Commission, asking it to provide a state debt impact note within 7 days.

The fiscal note for a bill proposing to increase the amount of debt authorization is to describe the current outstanding debt authorizations and project the cost of retiring the proposed additional bonds. The fiscal note for a bill proposing to appropriate from bond proceeds is to give an estimate of the impact of the bill on the state's debt-service costs; the intended purpose and useful life of the proposed project; and its maintenance and operating costs.

Copies of the note are sent to the Presiding Officer and minority leader in each house, the Clerk and Secretary, the sponsor, the chairmen and minority spokespersons of the appropriations and revenue committees of each house, and the legislator (if any) who asked for the note.<sup>25</sup>

**Correctional Budget and Impact Notes** If a bill proposes to create a new crime; lengthen the possible imprisonment for an existing crime; or impose mandatory imprisonment, the sponsor must file a correctional budget and impact note in the house of origin. The Department of Corrections is to prepare the note within 10 calendar days after the request. The note must give factual information on the impact the bill would have on the size of the prison population, and the likely impact on the Department's annual budget.<sup>26</sup>

If a bill would create a new crime punishable by detention in a juvenile facility, probation, intermediate sanctions, or community service; or increase the punishment for an existing crime so as to require commitment to a probation and court services department, the sponsor must file a correctional budget and impact note in the house of origin. The Administrative Office of the Illinois Courts is to prepare the note within 10 calendar days after a request. The note must give factual information on the likely effects the bill would have on probation caseloads and staffing needs statewide, and on the annual budgets of the Illinois Supreme Court and of counties.<sup>27</sup>

**Home-Rule Notes** If a bill proposes to deny or limit any power or function of a home-rule unit, the sponsor must file a home-rule note in the house of origin. The Department of Commerce and Economic Opportunity is to prepare the note within 10 days after the request, unless the sponsor allows an extension of 5 days due to the complexity of the bill. The note is to include both immediate effects of the bill, and long-term effects if foreseeable.<sup>28</sup>

**Balanced Budget Notes** The sponsor of a bill or amendment proposing a supplemental appropriation to change the allocation of General Funds revenues must prepare a balanced-budget note and file it in the house where the bill or amendment is being considered. The note is to include a discussion of a proposed reduction in other spending, or increases in state revenues, that would allow the bill to become law without "adversely affecting" the state budget for that fiscal year. Copies of the note must be submitted to the Clerk or Secretary, the Presiding Officer and minority leader of each house, the chairman and minority spokesman of the appropriations committee to which the bill is or was assigned, the bill's sponsor, and the sponsor of the amendment if different.<sup>29</sup>

**Housing Affordability Impact Notes** If a bill would directly increase or reduce the cost of building, buying, owning, or selling a single-family residence, the sponsor must ask the Illinois Housing Development Authority (IHDA) to prepare a housing affordability impact note for filing in the house of origin. IHDA is to prepare the note within 5 days unless the bill's complexity requires more time.<sup>30</sup> The note must estimate costs of the immediate effects and, if possible, of long-range effects. If no cost estimate can be made, the note must so indicate. A summary or worksheet of computations used to make the cost estimate must be attached to the note.<sup>31</sup>

**State Mandate Notes**      The State Mandates Act says that if a law imposes more responsibilities on units of local government, school districts, or community college districts, thus causing their revenues or expenditures to change (or if it would change the distribution of state funds to them), the state must reimburse them—with exceptions for some categories of proposed changes.<sup>32</sup> Any bill that would make such changes must have a fiscal note stating the amounts of fiscal changes it would cause. For bills affecting units of local government, the state mandates note is prepared by the Department of Commerce and Economic Opportunity. For bills affecting school districts, the fiscal note is prepared by the State Superintendent of Education. For bills affecting community college districts, the fiscal note is prepared by the Illinois Community College Board.<sup>33</sup>

The most common method of dealing with the State Mandates Act has been to include, in a bill that proposes a new program, an exemption of that new program from the Act.<sup>34</sup> But even if a bill calls for such an exemption, a note must still be filed with it.<sup>35</sup>

**General Points on Notes**      The following provisions are found in several of the laws requiring notes:

- In most cases, if a bill needing a note is amended in a way that substantially alters the information on which the note was based, the note must be revised to reflect the change.
- If a legislator who is not the sponsor requests that a note be furnished, the bill can be held on Second Reading until a note is provided.
- If there is a dispute about whether a note is required on a bill, and the dispute cannot be otherwise settled, the sponsor can ask the full house to decide the question by majority vote.

**Real Estate Appraisals in House**      A House rule requires that if a bill provides for any real estate owned by the state to be conveyed (except to another government), a certified appraisal of its value must be filed. The appraisal is to be filed with the clerk of the standing committee to which the bill is assigned. If the bill is advanced to Second Reading without reference to a committee, the appraisal is to be filed with the Clerk of the House.<sup>36</sup>

## **State Debt Authority**

The Finance Article of the Constitution says that the Governor may not propose expenditures for a fiscal year that would exceed estimated revenues;<sup>37</sup> and the General Assembly may not appropriate amounts that exceed estimated revenues.<sup>38</sup> Thus the Constitution directs that the state's annual operating budget be balanced. But the Constitution permits the state to incur long-term debt, or short-term "casual" debt, using the procedures described on the following pages.



**Long-Term Debt** This is the most common way in which the state borrows, usually for major construction projects. Such projects are usually funded by general-obligation (“GO”) bonds secured by the state’s full faith and credit. Such long-term debt must be authorized by a law stating the purpose of the project and providing for repayment. A law authorizing long-term debt must be either (1) passed by three-fifths of the members elected to each house, or (2) passed by the usual constitutional majority in each house and approved at the next general election by a majority of persons voting on the question.<sup>39</sup> Only method (1) has been used since this provision was adopted as part of the 1970 Constitution.

**Short-Term Debt** This form of debt is incurred for a short time if unanticipated events cause a temporary excess of spending over revenues. The Constitution provides two ways to incur short-term debt:

- (1) The state may provide by law for incurring debt in anticipation of revenues up to 5% of total appropriations for that fiscal year, but the debt must be repaid during the same fiscal year.<sup>40</sup>
- (2) The state may provide by law for incurring debt due to emergencies or failures of revenue up to 15% of total appropriations for that fiscal year, but the debt must be repaid within 1 year after it is incurred.<sup>41</sup>

A statute on short-term borrowing authorizes the Governor, Comptroller, and Treasurer jointly to borrow an amount equaling up to 5% of the state’s annual appropriations to meet a short-term imbalance between revenue and spending.<sup>42</sup> Amounts so borrowed must be repaid by the end of that fiscal year. This act was used in fiscal years 1983, 1987, 1992, 1993, 1994, 1995, 1996, and 2003 (in July 2002) to meet temporary shortfalls in state revenue. Under another section of that act, those three officials jointly can borrow an amount equaling up to 15% of the state’s appropriations for the fiscal year, but only with 30 days’ advance written notice to the Clerk of the House, Secretary of the Senate, and Secretary of State, including a list of fiscal measures they recommend to restore the state’s fiscal soundness.<sup>43</sup>

**Medicaid Borrowing** Under a 1994 law that applied only in fiscal year 1995, the state sold \$687 million in general obligation bonds to finance medicaid payments. The 1994 law said that this debt, when added to amounts borrowed during that fiscal year under the statute just described,<sup>44</sup> could not exceed 15% of the state’s appropriations for that fiscal year, and the money could not be borrowed for more than 1 year.<sup>45</sup>

A 2004 law<sup>46</sup> that applied only from June 9 to June 30 authorized a sale of up to \$850 million in general obligation bonds to finance medicaid and medical services provided under the Children’s Health Insurance Program Act.<sup>47</sup> The 2004 law said all proceeds were to be deposited into a newly created Medicaid Provider Relief Fund and could not be borrowed for more than one year.<sup>48</sup>

**Revenue Bonds** The General Assembly can authorize state agencies to issue bonds to be repaid with revenues from projects financed by those bonds—such as tolls from toll highways, or rents from college dormitories.<sup>49</sup> Such “revenue bonds” are not direct obligations of the state. But issuing them may nevertheless affect the state’s credit rating—particularly if bond buyers believe that the state has what they call a “moral obligation” to repay them. Buyers think of revenue bonds as being backed by a moral obligation if they believe that a future General Assembly—even though not legally obligated to do so—might decide to pay off the bonds to prevent default and thus protect the state’s credit reputation. If the bond market perceives a revenue bond issue as being backed by a moral obligation, credit rating agencies will take that bond issue into account when rating the state’s other debt—because even a voluntary repayment of agency debt diverts money that otherwise could be used to pay debt on which the state is legally obligated.

## Post-Appropriation Reports

Two reports, both issued by the Comptroller, can be helpful in understanding how state money is distributed through appropriations.

The first is *Illinois Appropriations*, issued after the General Assembly and Governor have finalized the budget for a fiscal year. This book summarizes appropriations for the fiscal year in tables. It also reprints every appropriation bill that was enacted, classified by agency.

The other book is the *Illinois Annual Report*. It is published when the state’s account books are closed after a fiscal year. It shows all receipts and expenditures of state funds. For each office, department, or other agency, it reports amounts appropriated, spent, and lapsed (allowed to go unspent). The figures on spending include spending during the “lapse period”—the first two months after the end of the fiscal year (July and August), during which agencies can pay outstanding bills that they incurred under appropriations for the just-ended fiscal year.<sup>50</sup>

- Notes
1. See 15 ILCS 20/50-5, first sentence. That sentence allowed postponement of the message until the second Wednesday in April in 2003 alone.
  2. Ill. Const., art. 8, subsec. 2(a).
  3. 30 ILCS 105/13.4.
  4. Ill. Const., art. 8, subsec. 1(a).
  5. See, for example, *People ex rel. City of Urbana v. Paley*, 68 Ill. 2d 62, 368 N.E.2d 915 at 920-921 (1977); *Friends of the Parks v. Chicago Park Dist.*, 203 Ill. 2d 312, 786 N.E.2d 161 (2003).
  6. Ill. Const., art. 8, subsec. 1(b).
  7. Ill. Const., art. 8, subsec. 1(c).
  8. Ill. Const., art. 8, subsec. 2(b).
  9. 25 ILCS 155/4.
  10. Ill. Const., art. 4, subsec. 8(d), second paragraph.
  11. 30 ILCS 105/13.
  12. 30 ILCS 105/15a to 105/24.7.
  13. 30 ILCS 105/13.2(a) to (a-3) and (c) (as redesignated by P.A. 93-680 (2004)).
  14. 30 ILCS 105/13.2(a-2) (as redesignated by P.A. 93-680 (2004)).
  15. P.A. 92-600, sec. 5-10 (2002), adding 30 ILCS 105/13.2(c-1).

16. 30 ILCS 105/13.2(c-2), added by P.A. 93-680 (2004).
17. 30 ILCS 105/13.2(a-2) as amended by P.A. 93-839 (2004).
18. See 30 ILCS 105/13, last paragraph and 105/13.2(a-2) (as redesignated by P.A. 93-680 (2004)).
19. P.A. 93-842 (2004), enacted by S.B. 3340 (Trotter-Schoenberg-Welch—Madigan-Cross-Hannig-Beaubien).
20. 25 ILCS 50/1 ff.
21. 25 ILCS 55/2.
22. 25 ILCS 55/3 and 55/4.
23. 25 ILCS 55/2.
24. 25 ILCS 60/1 ff.
25. 25 ILCS 65/1 ff.
26. 25 ILCS 70/2(a) and 70/3.
27. 25 ILCS 70/2(b) and 70/3.
28. 25 ILCS 75/1 ff.
29. 25 ILCS 80/1 ff.
30. 25 ILCS 82/5 and 82/10.
31. 25 ILCS 82/20.
32. 30 ILCS 805/6.
33. 30 ILCS 805/8(b)(2).
34. Such exemptions are listed in 30 ILCS 805/8.1 ff.
35. See 30 ILCS 805/8(b)(1), second paragraph and 805/8(b)(2).
36. House Rule 41(b), 93rd General Assembly.
37. Ill. Const., art. 8, subsec. 2(a).
38. Ill. Const., art. 8, subsec. 2(b).
39. Ill. Const., art. 9, subsec. 9(b).
40. Ill. Const., art. 9, subsec. 9(c).
41. Ill. Const., art. 9, subsec. 9(d).
42. 30 ILCS 340/1.
43. 30 ILCS 340/1.1.
44. 30 ILCS 340/1 ff.
45. P.A. 88-554 (1994), adding 30 ILCS 342/5. That section was extensively amended by P.A. 93-674 (2004), described next.
46. P.A. 93-674 (2004).
47. 205 ILCS 116/1 ff.
48. 30 ILCS 342/5 as amended by P.A. 93-674.
49. Ill. Const., art. 9, subsec. 9(f).
50. 30 ILCS 105/25(b).